



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Central Region  
1234 East Shaw Ave  
Fresno, California 93710  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



August 4<sup>th</sup>, 2021

Governor’s Office of Planning & Research

**August 04 2021**

**STATE CLEARINGHOUSE**

Katie Banister  
Assistant Planner  
City of Paso Robles  
1000 Spring Street  
Paso Robles, California 93446

**Subject: GTC Development (PROJECT)  
MITIGATED NEGATIVE DECLARATION (MND)  
SCH No. 2021070091**

Dear Ms. Banister:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the City of Paso Robles for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

**CDFW ROLE**

CDFW is California’s **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

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<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The “CEQA Guidelines” are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Katie Banister, Assistant Planner  
City of Paso Robles  
August 4<sup>th</sup>, 2021  
Page 2

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code may be required.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** Garrett Thiessen Construction

**Objective:** The objective of the Project is to subdivide a parcel of 6.54-acres into two. Primary Project activities include developing two 12,462 square foot buildings, parking lots, and a septic system for both buildings. The project is near the ephemeral Huerhuero Creek, where the main road will be widened requiring extension of a drainage culvert.

**Location:** 3051 Union Road, Paso Robles California 93446. Assessor's Parcel Numbers: 025-371-029

**Timeframe:** Unspecified

## **COMMENTS AND RECOMMENDATIONS**

CDFW offers the comments and recommendations below to assist the City of Paso Robles in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

CDFW recommends that a qualified biologist conduct a habitat assessment, well in advance of Project implementation to determine if the Project Area or the immediate vicinity contains habitat suitable to support special-status plant or animal species, including, but not limited to, those mentioned in the MND. If suitable habitat is present, CDFW recommends assessing presence/absence of special-status species by conducting surveys following recommended protocols or protocol-equivalent surveys. Recommended protocols vary by species and more information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). As currently drafted, the MND does not require consultation with CDFW if State-listed species are detected at the Project site. However, if the Project supports State-listed species, consultation with CDFW is warranted to discuss how to avoid take, or if avoidance is not feasible, to acquire an Incidental Take Permit (ITP) pursuant to Fish and Game Code section 2081 subdivision (b) prior to initiating any ground-disturbing activities. CDFW recommends revising the MND to

Katie Banister, Assistant Planner  
City of Paso Robles  
August 4<sup>th</sup>, 2021  
Page 3

make consultation with CDFW regarding avoidance and/or take authorization of State-listed species a condition of Project approval.

Of additional concern to CDFW is mitigation measure BIO-9 which, as currently drafted, requires “Construction activity within 100 feet of drainages and wetlands shall occur only when conditions are dry”. However, Project activities within this distance of drainages and wetlands have the potential to impact these biological resources, regardless of whether or not these resources are dry or wetted at the time activities are conducted. For this reason, CDFW recommends incorporating the specific mitigation measures below into the MND to address potential impacts to wetland and drainage features.

## **I. Environmental Setting and Related Impact Shortcoming**

### Lake and Streambed Alteration (LSA)

Project activities that have the potential to impact streams may be subject to CDFW’s LSA regulatory authority. Streams function in the collection of water from rainfall, storage of various amounts of water and sediment, discharge of water as runoff and the transport of sediment, and they provide diverse sites and pathways in which chemical reactions take place and provide habitat for fish and wildlife species. Disruption of stream systems due to Project activities (e.g., ground-disturbance) can have significant physical, biological, and chemical impacts that can extend into the adjacent properties, thereby adversely affecting the flora and fauna in the adjacent habitat.

### **Recommended Mitigation Measure 1: Notification of Lake or Streambed Alteration**

Ground-disturbing activities that have the potential to substantially change the bed, bank, and channel of streams or alter riparian habitat, may be subject to CDFW’s regulatory authority pursuant to Fish and Game Code section 1600 *et seq.* Fish and Game Code section 1600 *et seq.* requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); or (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. “Any river, stream, or lake” includes those that are ephemeral or intermittent as well as those that are perennial. CDFW is required to comply with CEQA in the issuance of a Lake or Streambed Alteration Agreement. For additional information on notification requirements, please contact our staff in the LSA Program at (559) 243-4593.

## **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).)

Katie Banister, Assistant Planner  
City of Paso Robles  
August 4<sup>th</sup>, 2021  
Page 4

Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

## CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the City of Paso Robles in identifying and mitigating Project impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Please see the enclosed Mitigation Monitoring and Reporting Program (MMRP) table which corresponds with recommended mitigation measures in this comment letter. Questions regarding this letter or further coordination should be directed to Aimee Braddock, Environmental Scientist at [aimee.braddock@wildlife.ca.gov](mailto:aimee.braddock@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
041A77B10D78486...  
Julie A. Vance  
Regional Manager

## Attachments

- A. MMRP for CDFW Recommended Mitigation Measures

cc: Office of Planning and Research, State Clearinghouse, Sacramento

**Attachment 1**

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE  
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)**

**PROJECT: GTC Development Plan**

**SCH No.: 2021070091**

<b>RECOMMENDED MITIGATION MEASURE</b>	<b>STATUS/DATE/INITIALS</b>
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation Measure 1: Notification of Lake or Streambed Alteration	